current resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECORD CARRIER COMPETITION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 271) to repeal section 222 of the Communications Act of 1934.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

SHORT TITLE

SECTION 1. This Act may be referred to as the "Record Carrier Competition Act of 1981".

COMPETITION AMONG RECORD CARRIERS

SEC. 2. Section 222 of the Communications Act of 1934 is amended to read as follows:

"COMPETITION AMONG RECORD CARRIERS

"SEC. 222. (a) For purposes of this section:

"(1) The term 'primary existing international record carrier' means any record carrier which (A) derives a majority of its revenues during any calendar year from the provision of international record communications services between points of entry into or exit from the United States and points outside the United States; (B) is eligible, on the date of the enactment of the Record Carrier Competition Act of 1981, to obtain record traffic from a record carrier in the United States for delivery outside the United States; and (C) is engaged in the direct provision of record communications services between the United States and 4 or more continents.

"(2) The term 'record carrier' means a common carrier engaged in the offering for hire of any record communications service, including service on interstate network facilities between 2 points located in the same State. Such term does not include any common carrier which derives a majority of its revenues during any calendar year from the provision of services other than record communications service.

"(3) The term 'record communications service' means those services traditionally offered by telegraph companies, such as telegraph, telegram, telegram exchange, and similar services involving an interconnected network of teletypewriters.

"(b)(1) The Commission shall, to the maximum extent feasible, promote the development of fully competitive domestic and international markets in the provision of record communications service, so that the public may obtain record communications service and facilities (including terminal equipment) the variety and price of which are governed by competition. In order to meet the purposes of this section, the Commission shall forbear from exercising its authority under this Act as the development of competition among record carriers reduces the degree of regulation necessary to protect the public.

"(2) In furtherance of the purposes of this section, record carriers shall not impose upon users of any regulated record communications services the costs of any other services or facilities (including terminal equipment), whether regulated or unregulated.

"(c)(2)(A)(i) In implementing its responsibilities under section 201(a), the Commission shall require each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purpose of this section.

"(ii)(I) Subject to the provisions of subclause (II), if a request for interconnection under clause (i) is for the purpose of providing international record communications service, then the agreement entered into under clause (i) shall require that the allocation of record communications service between points outside the United States and points of entry in the United States shall be based upon a pro rata share of record communications service between points of exit out of the United States and points outside the United States provided by the carrier making such request for interconnection.

"(II) The requirement established in subclause (I) shall not apply in any case in which the customer requesting any record communications service between a point outside the United States and a point of entry in the United States has the option to specify the international record carrier which will provide such record communications service.

"(B) The Commission shall require that—

"(i) if any record carrier engages both in the offering for hire of domestic record communications services and in the offering for hire of international record communications services, then such record carrier shall be treated as a separate domestic record carrier and a separate international record carrier for purposes of administering interconnection requirements;

"(ii) in any case in which such separate domestic record carrier furnishes interconnection to such separate international record carrier, any interconnection which such separate domestic record carrier furnishes to other international record carriers shall be (I) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions; and

"(iii) in any case in which such separate international record carrier furnishes interconnection to such separate domestic record carrier, any interconnection which such separate international record carrier furnishes to other domestic record carriers shall be (I) equal in type and quality; and (II) made available at the same rates and upon the same terms and conditions.

The requirements of clauses (i), (ii), and (iii) shall not apply to a record carrier if such record carrier does not have a significant share of the market for record communications services.

"(2) If any request made by a record carrier under paragraph (1)(A)(i) will require an agreement under which any record communications service or facility operated by one of the parties to such agreement will be used by any other party to such agreement, then such agreement shall establish a nondiscriminatory formula for the equitable allocation of revenues derived from such use between the parties to such agreement, except that each party to such agreement shall have the right to establish the total price charged by such party to the public for any such service which is originated by such party, consistent with the provisions of section 203. The the extent possible, and consistent with the provisions of paragraph (3)(B)(ii), the Commission shall require that such equitable allocation of revenues be based upon the costs of the record communications service or facility employed as a result of such agreement.

"(3)(A) The Commission, as soon as practicable (but not later than 15 days) after the date of the enactment of the Record Carrier Competition Act of 1981, shall convene a meeting among all record carriers which the Commission determines would be parties to any agreement required by paragraph (1)(A)(i). Such meeting shall be held for the purpose of negotiating any such agreement. Representatives of the Commission shall attend such meeting for purposes of monitoring and presiding over such negotiations.

"(B)(i) In the case of any such required agreement, if—

"(I) the record carrier subject to the interconnection requirement; and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

fail to enter into an agreement before the end of the 45-day period following the beginning of such meeting, then the Commission shall issue an interim or final order which establishes a just, fair, reasonable, and nondiscriminatory agreement which is consistent with the purposes of this section. Any such agreement established by the Commission shall be binding upon such parties.

"(ii) Such interim or final order shall be issued not later than 90 days aftter the date on which the Commission convenes the meeting under subparagraph (A). In the case of any such required agreement, if—

"(I) the record carrier subject to the interconnection requirement; and

"(II) a majority of the primary existing international record carriers involved in the meeting convened by the Commission under subparagraph (A);

reach an agreement which complies with the requirements of this section, and such agreement is entered into before the issuance of such order by the Commission under this subparagraph, then such agreement of the parties shall take effect and the Commission shall not be required to issue any such order.

"(C) Any record carrier which is not subject to the agreement entered into, or established by the Commission, under this paragraph may elect to be subject to the terms of such agreement upon furnishing written notice to the Commission and to all existing parties to such agreement. After a carrier makes such an election, the terms and arrangements established by the agreement shall apply to such carrier to the extent practicable, as determined by the Commission.

"(4) The Commission shall have authority to vacate or modify an agreeemnt entered into by any record carriers under this section if the Commission determines that (A) such agreeemnt is not consistent with the purposes of this section; or (B) such agreement unjustly or unreasonably discriminates against any record carrier.

"(5) If the Western Union Telegraph Company submits an application to the Commission for authority to provide international record communications service, the Commission shall not have any authority to take any final action with respect to such application until the end of the 120-day period following the date a written agreement is entered into between such Company and other record carriers under paragraph (3), or following the effective date of any interim or final order issued by the Commission under paragraph (3)(B) with respect to such carriers. The limitation upon Commission authority established in this paragraph

shall expire at the end of the 210-day period following the date of the enactment of the Record Carrier Competition Act of 1981.

"(d) Subject to the provisions of subsection (c)(5), each record carrier may provide record communications service in the United States domestic market and in the international market. Any record carrier seeking to provide domestic record communications service may provide such service without submitting an application to the Commission under section 214 unless the Commission requires such a submission. The Commission shall act expeditiously upon any application submitted pursuant to section 214.

"(e)(1) At the end of the 36-month period following the date of the enactment of the Record Carrier Competition Act of 1981, the provisions of subsection (c), other than paragraph (1)(B) of such subsection, shall cease to have any force or effect.

"(2) The provisions of paragraph (1) shall not be construed to affect the obligation of any carrier to interconnect with any other carrier pursuant to this Act.".

COMMISSION OVERSIGHT OF DISTRIBUTION FORMULAS

SEC. 3. (a) Subject to the provisions of subsection (b), the Federal Communications Commission shall exercise its authority under the Communications Act of 1934 to continue its oversight of the establishment of just and reasonable distribution formulas for unrouted outbound telegraph traffic and the allocation of revenues with respect to such traffic, consistent with the purposes of section 222 of the Communications Act of 1934, as amended in section 2.

(b) The provisions of subsection (a) shall cease to have any force or effect at the end of the 1-year period beginning on the date of the enactment of this Act.

EFFECT OF AMENDMENT UPON CERTAIN CONTRACTS

SEC. 4. The amendment made in section 2 shall not affect the validity of the terms of any otherwise lawful contract relating to the distribution of outbound international record traffic between any domestic record carrier and any international record carrier if such contract was entered into before June 23, 1981.

AMENDMENT TO OTHER LAW

SEC. 5. (a) Section 122(a) of the Rock Island Transition and Employee Assistance Act is amended by adding at the end thereof the following new sentence: "The Commission shall have authority to authorize continued rail service under this section over the lines of the Rock Island Railroad until the disposition of the properties of the estate of the Rock Island Railroad.".

(b) The applicability of the amendment made by subsection (a) to Interstate Commerce Commission Service Order 1498 shall expire at the end of May 15, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. COLLINS of Texas. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. WIRTH) will be recognized for 20 minutes, and the gentleman from Texas (Mr. COLLINS) will be recognized for 20 minutes.

The chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

(Mr. WIRTH asked and was given permission to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, last Tuesday, December 8, the House passed H.R. 4927, the Record Carrier Competition Act of 1981, by unanimous voice vote. We then discharged the Committee on Energy and Commerce from further consideration of S. 271, a similar Senate bill; struck all after the enacting clause and inserted the text of H.R. 4927, and returned the bill to the Senate for its consideration.

Since that time, the majority and minority staffs of both the Subcommittee on Telecommunications, Consumer Protection and Finance and the Committee on Energy and Commerce have been working with their counterparts from the other body to propose compromise language that members of both Houses could support.

The Senate has recently agreed to the House bill with an amendment.

Mr. Speaker, I yield to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman for yielding.

If I understand the gentleman's remarks correctly, the provisions of the House bill which are being sunsetted will not affect section 201 of the existing act, which requires interconnections between and among carriers, and the division of revenues for the provision of joint and through service; is that right?

Mr. WIRTH. The gentleman is correct. All of the powers of the Commission remain, those in section 201, as well as those contained in other sections of the act.

Mr. COLLINS of Texas. Mr. Speaker, if the gentleman from Colorado will yield further, one of the changes made by the Senate amendments is to exempt carriers who do not have a substantial market share from the requirement that they treat their domestic and international operations as different carriers for the purposes of interconnection. Now, which carriers will be required to treat their domestic and international operations separately under this provision?

Mr. WIRTH. I think it is clear that the major international record carriers will be affected. In particular, Western Union International, ITT, RCA, and TRT will be affected.

In addition, of course, if Western Union ever offers international service, it, too, will be subjected to this requirement.

Finally, any new carriers which obtain a substantial market share will also be affected.

I would point out to the gentleman that although we have been talking about a lot of sunset provisions, I would emphasize that this particular provision remains in effect until it is repealed by the Congress.

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Colorado for his explanation.

Mr. Speaker, this was a good bill when it passed this House last week. It is even better now.

The Senate amendments leave intact the fundamental objective of the bill—to clear away market divisions that have been incorporated into the law so that competition can develop in all aspects of the record carrier industry. Moreover, the Senate amendments improve the bill by further reducing Government regulation of this industry. Under the Senate amendments, companies desiring to offer domestic record services will not normally be forced to get the FCC's permission before initiating such service. This will reduce Government redtape. Moreover, under the Senate amendments, many of the other transition regulations that were in the House bill—such as FCC-prescribed usage charges for interconnected carriers and the so-called international return-flow provision—will be terminated in 3 years.

Three years from now our hope and our belief is that we will have true competition for the first time in both the domestic and the international record industries. When that happens, there will be no need for Government regulation. The Senate amendments recognize this and take action to assure that Government regulation is reduced as competition develops.

Mr. Speaker, I endorse S. 271 as amended by the Senate. I urge my colleagues to pass the bill and send it to the President so that customers of record services in this country can begin to enjoy the fruits of competition early next year.

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Mr. WIRTH. Mr. Speaker, the reason that the Congress must address this issue is the fact that, despite the explicit obligations to interconnect that are contained in the Communications Act of 1934, full and fair interconnection among record carriers have not been implemented. The carriers involved have not lived up to their obligations, and, more importantly, the FCC has not forced them to. Had the Commission done its job, and mandated that record carriers interconnect, the Congress would not have had to address this issue—and if there were a need for Congress to address this issue, it most certainly would not be in this level of detail.

Thus, when the specific interconnection provisions of S. 271 cease to have effect in 3 years, I would advise the Commission to implement its standing interconnection obligations as specified in the act. In particular, I would point out the concern of this House about the inability of new carriers to obtain operating agreements with foreign carriers. The House bill—and the Senate amendments thereto—address this problem in a unique fashion. If this problem persists, and new entrants remain unable to obtain these operating agreements, it is certainly

our intent that the return-flow provisions which expire be extended as necessary. As the House said in its committee report on H.R. 4927, it is extremely concerned about the problem posed by foreign carriers' refusal to interconnect. The standing powers that the Commission has are certainly sufficient to extend the return-flow provision cited in subsection (c)(1)(A)(ii), which will help to mitigate this vexing problem.

If the Congress has to revisit the issue of return flows or interconnection in 3 years because of the inability of the FCC to carry out its obligations under the Communications Act of 1934, then the Commission itself may be unnecessary. I trust that this will not be the case.

Mr. Speaker, there is one additional provision which the Senate has attached to S. 271, which has nothing at all to do with record communications. This provision effects the bankrupt Rock Island Railroad, which is being dissolved pursuant to bankruptcy court order.

This amendment is intended to clarify what the congressional intent was in enacting section 122(a) of the Rock Island Transition and Employee Assistance Act. The House and Senate committees with jurisdiction understand the critical emergency facing shippers and communities in Texas, Oklahoma, and Kansas as a result of the Bankruptcy Court's recent interpretation of section 122(a). Because of this emergency situation, the House committee has agreed to accept this amendment, despite the lack of any hearings or committee action. However, the House committee feels strongly that it must have the opportunity to review this problem, and other problems related to the Rock Island Railroad, through normal committee procedures, next year. For that reasons, the clarification intended by the amendment is effective, with respect to the OKT Railroad, the subject of ICC Service Order 1498, only until May 15, 1982.

Mr. Speaker, this amendment has been cleared with the Subcommittee on Transportation and Commerce; it has been cleared with the full Committee on Energy and Commerce. Both the majority and minority have agreed to this language. It is of a limited nature; it has been agreed to unanimously, and, most importantly, it is needed prior to the adjournment of the Congress this year.

Mr. Speaker, I have no further requests for time.

(Mr. WIRTH asked and was given permission to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. ROBERTS).

Mr. ROBERTS of Kansas. I thank my colleague for yielding me this time.

Mr. Speaker, I rise in strong support of the provision which deals with the bankrupt Rock Island Railroad now being operated by the OKT. Had this provision not passed, it would have cost our agriculture shippers in Kansas, for only one commodity, and that is wheat, nearly $50 million.

Again, I rise in support of this provision and thank my colleagues.

Mr. COLLINS of Texas. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH) that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 271.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments to the Senate bill, S. 271, was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

AMENDING ACT WITH RESPECT TO CERTAIN FEES CHARGED UNDER THE BANKRUPTCY ACT

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5116) to amend the act of November 6, 1978, with respect to certain fees charged under the Bankruptcy Act.

The Clerk read as follows:

H.R. 5116

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled, That section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended—

(1) by inserting "(1)" after "(e)", and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding subsection (a) of this section, a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. EDWARDS) will be recognized for 20 minutes, and the gentleman from Virginia (Mr. BUTLER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5116 would place a ceiling on administrative fees paid into the nowabolished referees' salary and expense fund in certain large-asset cases pending under the former bankruptcy law—the Bankruptcy Act of 1898.

The referees' salary and expense fund was established long ago in an era when the bankruptcy courts were supposed to be self-supporting. In 1978, Congress abolished the referees' salary and expense fund and eliminated the percentage fee for all cases brought under the new Bankruptcy Code. The fund had been running a large deficit for a number of years, and there was general agreement that the bankruptcy court system should be funded from the general revenues of the Treasury, just as the remainder of the judicial system is funded.

On several earlier occasions, the Judicial Conference had recommended to Congress that the fund be abolished in recognition of the fact that the bankruptcy court system could not be self-supporting without placing an inordinate burden on bankrupts through increased filing fees and on creditors through increased percentage charges on the assets of the estate.

The burden of the percentage fees assessed on the bankrupt estate fell on the creditors since the fees were simply deducted from what would otherwise go to them in repayment of the amounts owed.

Thus, the fund and the percentage fee system were eliminated as to all cases commenced after September 30, 1979.

The 1978 Bankruptcy Act provided that all cases commenced under the former Bankruptcy Act would continue to be governed by the prior law—Public Law 95-598, section 403(a)—but section 403(e) of the 1978 act placed a $100,000 limit on fees charged under the old law in chapter XI cases where the plan was confirmed after September 30, 1978—Public Law 95-598, section 403(e). The cap was designed to limit the extraordinarily high fees in one or more very large-asset chapter XI cases, which were pending at the time—but had not yet been confirmed—and which were brought to Congress attention.

Congress was not aware of any such extraordinarily high fee cases under chapter VII. No large-asset chapter VII cases were brought to Congress attention at the time of the 1978 legislation, and chapter VII liquidation cases generally do not generate extremely large fees. Chapter XI reorganization cases are usually larger than straight bankruptcy case and therefore generally produce much higher fees.

H.R. 5116 would amend section 403(e) of the 1978 Bankruptcy Act to set a limit of $200,000 on the referees' salary and expense fund fees assessed in chapter VII liqudation cases brought under the former Bankruptcy Act and pending under such act after September 30, 1979. The bill would place a $200,000 cap on the fees owing in at least three chapter VII liquidation cases pending under the old